

LEGAL NOTICE
Notice of Proposed Rulemaking
Public Hearing

Notice is hereby given of proposed rulemaking and public hearing by the Hawaii Civil Rights Commission (HCRC), to amend Title 12, Chapter 46, Hawaii Administrative Rules (HAR), pursuant to Section 368-3(9), Hawaii Revised Statutes (HRS), and the Hawaii Administrative Procedure Act, Chapter 91, HRS.

The purpose of this public hearing is to consider amendments that are intended to make Hawaii's rules on employer's liability regarding sexual and ancestry harassment in the workplace consistent with the federal guidelines issued by the U.S. Equal Employment Opportunity Commission.

These proposed changes were initiated by the Hawaii Employers Council (HEC) which filed a Petition for Rule Relief, requesting the HCRC's approval to hold a public hearing on these rule changes. On April 18, 2006, the HCRC voted to grant the HEC's petition and initiate rulemaking proceedings under 91-3, HRS.

Specifically, the proposed changes include:

- a. Section 12-46-109, HAR, related to sexual harassment, is amended to delete the contents of subsection "c", which holds the employer strictly liable for the actions of their agents or supervisory employees.
- b. Section 12-46-175, HAR, related to harassment based on ancestry, is amended to delete the contents of subsection "d", which holds the employer strictly liable for the actions of their agents or supervisory employees.
- c. Section 12-46-109, HAR, related to sexual harassment, is amended to delete the last sentence of subsection "d", which advises an employee who has been sexually harassed by a co-worker to inform the employer, its agent, or supervisory employee of the harassment, and provides that failure to provide such notice may not be an affirmative defense.

A copy of the proposed rule changes will be available for public viewing from the first working day that the legal notice appears in the Honolulu Star Bulletin, The Honolulu Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Maui News, and The Garden Island, through the day the public hearing is held, from Monday - Friday between the hours of 1:00 p.m. - 4:00 p.m., at the following locations: 830 Punchbowl Street, Room 411, Honolulu, Hawaii 96813; 2264 Aupuni Street, Wailuku, Hawaii 96793; 75 Aupuni Street, Hilo, Hawaii 96720; 81-990 Halekii Street, Room 2087, Kealahou, Hawaii 96750; and 3060 Eiwa Street, Lihue, Hawaii 96766. A copy of the proposed rule changes may be viewed at our website at <http://hawaii.gov/labor/hcrc>. Copies will also be mailed at no cost, upon written request to the Hawaii Civil Rights Commission, Attention: Proposed Rule Changes, 830 Punchbowl Street, Room 411, Honolulu, Hawaii 96813.

Interested persons may present, at the public hearing, any written or oral data, views, arguments, comments, and objections concerning the proposals at:

HONOLULU, OAHU
September 29, 2006; 3:00 p.m. to 7:00 p.m.
830 Punchbowl Street, Room 310
Honolulu, Hawaii 96813

Interested persons unable to attend the public hearing, may submit written data, views, arguments, comments, and objections concerning the proposals to the Hawaii Civil Rights Commission, Attention: Proposed Rule Changes, 830 Punchbowl Street, Room 411, Honolulu, Hawaii 96813. All submissions for the record must be received at or prior to the scheduled public hearing. (If possible, please submit seven copies of any written data, views, arguments, comments, and objections.) Written data, views, arguments, comments and objections may also be faxed to the HCRC at 586-8655.

If necessary, the public hearing may be continued to a time, date, and place announced at the scheduled hearing.

The public hearing is accessible for individuals with disabilities. Auxiliary aids and services are available upon request by calling HCRC offices no later than ten working days prior to the needed accommodation. Please call (808) 586-8636 for more information or to request and auxiliary aid or service.

It is the policy of the HCRC, as an attached agency of the Department of Labor and Industrial Relations, that no person shall on the basis of race, color, sex, marital status, religion, creed, ethnic origin, national origin, age, disability, ancestry, arrest/court record, sexual orientation, and National Guard participation be subjected to discrimination, excluded from participation in, or denied the benefits of the department's services, programs, activities, or employment.

Dated: July 27, 2006

CORAL WONG PIETSCH
Chair
Hawaii Civil Rights Commission